## PARTAP SINGH v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) May 12, 1954]

[Singapore — Magistrate's Appeal No. 243 of 1954]

*Vagrancy Ordinance, 1939, s. 4(11) — "Suspected person" — Meaning of.*

This was an appeal from the conviction of the appellant on a charge under s. 4(11) of the Vagrancy Ordinance in that he being a suspected person loitered with intent to commit a seizable offence, to wit, robbery. The evidence showed that the accused and a number of other persons entered a house in Thomson Road and it was alleged that they were preparing to commit a robbery at that house.

**Held:** (1) to substantiate a charge under s. 4(11) of the Vagrancy Ordinance it must be shown that the person charged is a suspected person; (2) where all the acts regarded as suspicious are related to one contemplated offence and one only they do not come within the scope of s. 4(11) of the Vagrancy Ordinance and the person concerned does not become a suspected person.

*Cases referred to:—*

(1) *Hartley v. Ellnor* 117 L.T. 304.

(2) *Ledwith v. Roberts* (1937) 1 K.B. 232.

(3) *Rawlings v. Smith* (1938) 1 K.B. 675.

MAGISTRATE'S APPEAL.

*R. K. Roy* for the appellant.

*A. V. Winslow* (Crown Counsel) for the respondent.

*Cur. Adv. Vult.*

**Murray-Aynsley, C.J.** : — In this case the appellant was charged and convicted under section 4(11) of Ordinance No. 37 of 1939 in that he being a suspected person loitered with intent to commit a seizable offence, to wit, robbery. In this case the appellant does not appear to have given any cause for suspicion before the events which gave rise to the present charge and at material times to have been respectably employed at a military establishment in the Colony.

The matter began when an informer told the Police that certain persons including the appellant were proposing to commit a robbery at 240 Thomson Road. For a number of days the movements of the appellant and others were observed. These movements included a visit to 240 Thomson Road on the part of the appellant and others. No crime was committed or attempted and the persons concerned were arrested after they had left Thomson Road and had separated. There was no suggestion that the appellant or the others contemplated any offence except the particular robbery at 240 Thomson Road. In these circumstances it is a question whether the matter comes within the scope of the sub-section at all.

In the first place, on the facts disclosed, if anything could be proved against the appellant it was conspiracy to rob. If the evidence fell short of that there was nothing for which the appellant could have been convicted. It is always undesirable to make use of the Vagrancy Ordinance where any substantive charge can be brought.

Further it does not appear that facts were proved which bring the case within the sub-section. The person charged must be a "suspected" person. There has been, and there is, difference of judicial opinion as to the meaning of the term. But it is clear that the element of being suspected is always distinct from that of loitering.

It is very doubtful whether *Hartley v. Ellnor*[1] has much authority after the decision of *Ledwith v. Roberts*[2] in spite of the opinion of the King's Bench Division in *Rawlings v. Smith*[3]. In *Ledwith v. Roberts*[2] one Judge, Greer, L.J., approved of *Hartley v. Ellnor*[1]. Another, Greene L.J., expressed disapproval. The third, Scott L.J., said (at p. 624):—

"I find it difficult to understand the Court reaching that conclusion on the facts of that case, and on the whole I agree with Greene L.J. that it was wrongly decided."

In my case I think that all the authorities are agreed that where all acts regarded as suspicious are related to one contemplated offence and one only they do not come within the scope of the sub-section. The facts alleged by the defence in *Ledwith v. Roberts*[2] were of this kind, but it was held that as a matter of law they did not justify the arrest of the plaintiffs as they would have done if they brought the matter within the sub-section.

The appeal must be allowed and the conviction quashed.

*Appeal allowed.*

Solicitors for the appellant: *Pillai & Co.*